

# Disciplinary and Other FINRA Actions

## Firm Suspended, Individual Sanctioned

**CMG Institutional Trading, LLC (CRD® #47264, Chicago, Illinois) and Shawn Derrick Baldwin (CRD #4281564, Registered Principal, Chicago, Illinois)** were fined \$25,000, jointly and severally, and were suspended in any capacity for two years. The Securities and Exchange Commission (SEC) affirmed the sanctions following appeal of a NAC decision. The sanctions were based on findings that the firm and Baldwin failed to respond completely and fully to FINRA™ requests for information.

The suspensions are in effect from April 6, 2009, through April 5, 2011. (FINRA Case #E8A2005025201)

## Firms Fined

**Aletheia Securities, Inc. (CRD #44784, Santa Monica, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its written supervisory procedures regarding Trade Reporting and Compliance Engine™ (TRACE™) reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time; failed to report transactions in TRACE-eligible securities to TRACE that it was required to report; failed to report the correct trade execution time for transactions in TRACE-eligible securities; and incorrectly reported transactions as block transactions with a customer, when, in fact, it should have reported the individual customer transactions that comprised each block. The findings stated that the firm's separate and distinct violations of NASD® Rule 6230(a) and its pattern or practice of late reporting without exceptional circumstances violated NASD Rule 2110. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA Rules for TRACE reporting. (FINRA Case #2006005961501)

**BNP Paribas Securities Corp. (CRD #15794, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its written supervisory procedures regarding the reporting of options positions. Without admitting or denying the findings, the firm consented to the described

## Reported for May 2009

FINRA has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

sanctions and to the entry of findings that it failed to report reportable positions in conventional options by the close of business on the next business day following the day on which the transactions took place, and failed, in some instances, to respond properly after the Securities Industry Automation Corporation (SIAC) rejected the trades. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA Rules concerning the reporting of options positions. **(FINRA Case #2007007861301)**

**Great Point Capital LLC (CRD #114203, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures regarding NASD Rules 3350, 6130(d)(6), and SEC Rules 200(g) and 203(b)(1). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account without borrowing the security, or entering into a bona fide arrangement to borrow the security; or having reasonable grounds to believe that the security can be borrowed so that it can be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1). The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA Rules concerning NASD Rules 3350, 6130(d)(6), and SEC Rules 200(g) and 203(b)(1). **(FINRA Case #2006005053101)**

**Intrade, LLC (CRD #104047, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline transactions in reportable securities in the NASD/NASDAQ Trade Reporting Facility (NNTRF) within 20 minutes after execution. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA Rules concerning NASD Rule 6130. **(FINRA Case #2008012327101)**

**Kingside Partners, LLC (CRD #139930, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) to the Order Audit Trail System™ (OATS™). The findings stated that the firm failed to enforce its written supervisory procedures, which specified that the designated principal shall access the OATS Web Interface daily to review the firm's reporting statistics. **(FINRA Case #2007008540301)**

**Mitsubishi UFJ Securities (USA), Inc. (CRD #19685, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted an employee to perform certain functions requiring principal registration while he was not registered with FINRA in that capacity. **(FINRA Case #2007008490201)**

## Individuals Barred or Suspended

**Joe Russell Bancroft (CRD #4534394, Registered Representative, Poplar Bluff, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bancroft consented to the described sanction and to the entry of findings that he misappropriated \$10,500 worth of cash premium payments that he received from insurance customers for his personal use. The findings stated that Bancroft attempted to cover up his misuse of customer funds by depositing some of the more recent cash payments he received from customers into the accounts of other customers whose money he had previously misappropriated. (FINRA Case #2008015912901)

**Linton Fred Banwell (CRD #11952, Registered Principal, Clarkston, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Banwell consented to the described sanctions and to the entry of findings that he exercised discretion in a public customer's account by using the proceeds of matured certificates of deposit in the customer's securities account to purchase \$17,000 of a mutual fund without the customer's prior written authorization. The findings stated that Banwell's member firm did not accept the customer's account as discretionary (in writing or otherwise) prior to his exercising discretionary power.

The suspension was in effect from April 6, 2009, through April 13, 2009. (FINRA Case #2007011066801)

**Michael Ross Berkoff (CRD #2571295, Registered Representative, Greenacres, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Berkoff's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Berkoff consented to the described sanctions and to the entry of findings that he failed to enter a stop-loss order a customer requested, and borrowed \$8,000 from the customer in violation of his member firm's procedures and NASD Rules 2110 and 2370.

The suspension is in effect from April 6, 2009, through May 18, 2009. (FINRA Case #2007011925501)

**Mary Mae Bickford (CRD #4997726, Registered Representative, Coon Rapids, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bickford consented to the described sanction and to the entry of findings that, while associated with a member firm, she converted \$21,667.05 of non-securities to her personal use by effecting unauthorized journal transactions from her member firm's suspense account to her personal brokerage account at the firm. The findings stated that Bickford failed to fully respond to FINRA requests for information. (FINRA Case #2007011102901)

**Brian Scott Brown (CRD #4674731, Registered Representative, Brooklyn, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Brown willfully failed to disclose material information on his Uniform Application for Securities Industry Registration or Transfer (Form U4), and failed to respond to FINRA requests for information. **(FINRA Case #2008013493101)**

**Christopher John Brunert (CRD #3055225, Registered Representative, Kings Park, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Brunert fraudulently obtained a customer's signature on a wire transfer form in order to misappropriate \$100,000 from the customer. The findings stated that Brunert transferred the funds into a bank account that he and a relative controlled for his own use and benefit, and used the funds to pay credit card debts and other expenses. The findings also stated that Brunert failed to respond to FINRA requests for information and to appear for an on-the-record interview. **(FINRA Case #2008012476701)**

**Peter M. Castelluccio (CRD #4125302, Associated Person, Hewitt, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid pursuant to an installment plan either immediately upon Castelluccio's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Castelluccio consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension is in effect from April 6, 2009, through July 5, 2009. **(FINRA Case #2008012581401)**

**Young Jin Chun (CRD #2785584, Registered Representative, Suffern, New York)** submitted an Offer of Settlement in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Chun's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Chun consented to the described sanctions and to the entry of findings that she created false documents by misrepresenting that a customer had not been previously declined life insurance on variable life insurance applications when, in fact, the customer had been previously declined life insurance. Moreover, Chun's actions caused the firm's books and records to contain false and misleading information related to the customer's life insurance application history.

The suspension is in effect from March 16, 2009, through March 15, 2010. **(FINRA Case #2006005940901)**

**Robert A. Clipper (CRD #5109047, Registered Representative, Bay City, Michigan)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Clipper received \$5,000 from insurance customers to pay insurance premiums and made improper use of the funds to pay his insurance agency's business expenses. The findings stated that Clipper failed to completely respond to FINRA requests for information. **(FINRA Case #2007009785301)**

**Jason Adam Craig (CRD #4016543, Associated Person, Washington Township, Michigan)** was barred from association with any FINRA member in any capacity. The SEC imposed the sanction following appeal of a NAC decision. The sanction was based on findings that Craig willfully failed to disclose material information on his Form U4. **(FINRA Case #E8A2004095901)**

**Michael Vincent Davies (CRD #1889502, Registered Representative, Northville, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Davies' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Davies consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to give prior written notice to, or receive prior written approval from, his member firm.

The suspension is in effect from April 6, 2009, through October 5, 2009. **(FINRA Case #2007011285101)**

**Miriam Therese Dever (CRD #702034, Registered Representative, West Roxbury, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Dever consented to the described sanctions and to the entry of findings that she signed a customer's name, without the customer's authorization or consent, to forms to consolidate accounts in accordance with her wishes. The findings also stated that Dever failed to disclose material information on her Form U4.

The suspension is in effect from April 20, 2009, through July 19, 2009. **(FINRA Case #2007010858601)**

**Peggy Lyn Fry (CRD #1239569, Associated Person, Aurora, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Fry consented to the described sanction and to the entry of findings that, while associated with a member firm, she transferred, or caused the transfer of, \$25,000 from a customer's brokerage account to her personal bank account, without the customer's knowledge or consent, by creating a false Automatic Clearing House Transaction Request Form to which she forged the customer's signature and used the funds to pay personal expenses. The findings stated that the firm repaid the customer's funds, plus interest, and then Fry repaid the firm. **(FINRA Case #2008012267901)**

**Alan Joseph Ganim (CRD #1150852, Registered Representative, Chardon, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for three months. In light of Ganim's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Ganim consented to the described sanction and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension is in effect from April 6, 2009, through July 5, 2009. **(FINRA Case #2007010192201)**

**David Garcia (CRD #4809280, Registered Representative, Bartlett, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Garcia's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Garcia consented to the described sanctions and to the entry of findings that he directed an individual to telephone the insurance affiliate of his member firm for a client history interview and to impersonate an insurance customer to obtain approval of life insurance policies for the customer prior to the deadline date.

The suspension was in effect from March 16, 2009, through April 27, 2009. **(FINRA Case #2007010314101)**

**John A. Gargiulo (CRD #3174988, Registered Representative, Point Pleasant, New Jersey)** was barred from association with any FINRA member in any capacity and ordered to pay \$3,000, plus interest, in restitution. The sanctions were based on findings that Gargiulo failed to respond to FINRA requests for information and engaged in unauthorized transactions in a customer's account. **(FINRA Case #2006005919501)**

**Carol Ann Geske (CRD #1353390, Registered Principal, Shelburne, Vermont)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Geske consented to the described sanctions and to the entry of findings that, after learning that a customer's enrollment form in a mutual fund had been rejected because it was submitted more than 30 days after it had been signed, she signed the customer's name on a new enrollment form without the customer's authorization or consent rather than asking the customer to sign a new application.

The suspension was in effect from April 6, 2009, through May 5, 2009. **(FINRA Case #2008012224701)**

**Kevin Mark Glodek (CRD #2419411, Registered Representative, New York, New York)** was fined \$25,000 and suspended from association with any FINRA member in any capacity for six months. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Glodek made material misrepresentations to customers in connection with the sale of stock. The misrepresentations included predictions of the future price of a stock.



This decision has been appealed to the SEC and the sanctions are not in effect pending the appeal. **(FINRA Case #E9B2002010501)**

**Tonya Marie Griffin (CRD #4568590, Registered Representative, Brodhead, Wisconsin)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Griffin failed to respond to FINRA requests for information. **(FINRA Case #2006006968202)**

**Chuck Richard Hayworth (CRD #2759746, Registered Representative, Wake Forest, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hayworth consented to the described sanction and to the entry of findings that he prepared and submitted 403(b) Employee Retirement Income Security Act (ERISA) Distribution Request forms on public investors' behalf authorizing the distribution of 403(b) assets to rollover Individual Retirement Accounts (IRAs) at his member firm. The findings stated that, even though the investors had consented to the transfers, they were ineligible for rollovers because they were currently still employed by the 403(b) plan sponsor. The findings also stated that Hayworth was aware of their ineligibility but provided false employment-status information and forged the plan administrator's signature on each distribution request form to facilitate the rollovers. **(FINRA Case #2007010709901)**

**Edward James Jeffery (CRD #2296293, Registered Principal, Portland, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Jeffery consented to the described sanctions and to the entry of findings that he effected discretionary transactions in a customer's account without written discretionary authority and without his member firm's acceptance of the customer's accounts as discretionary.

The suspension is in effect from April 6, 2009, through May 18, 2009. **(FINRA Case #2007011939401)**

**Patrick James Jensen (CRD #1952963, Registered Representative, Spring Lake, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for one year. In light of Jensen's financial status, no monetary sanction was imposed. Without admitting or denying the findings, Jensen consented to the described sanction and to the entry of findings that he paid \$18,000 to another firm's trader and the trader's relative so that the trader would continue to conduct his firm's securities transactions through its account with Jensen. The findings stated that Jensen, while serving as the registered representative of record on a customer's corporate account, shared in losses and gains in the account without written authorization from his member firm or the customer, and he did not share in the profits and losses in direct proportion to his financial contributions to the account.

The suspension is in effect from April 6, 2009, through April 5, 2010. **(FINRA Case #2007009082701)**

**Kurt H. Johansson (CRD #708249, Registered Principal, Idaho Falls, Idaho)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Johansson failed to respond completely to FINRA requests for information and documents and failed to appear for a FINRA on-the-record interview. **(FINRA Case #2006007018301)**

**Corbin Taylor Jones (CRD #4468964, Registered Representative, Cave Creek, Arizona)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Jones failed to respond to FINRA requests for information and to appear for on-the-record interviews. The findings stated that Jones participated in a private securities transaction without prior notice to his member firm. **(FINRA Case #2006004969704)**

**Jill A. Kleinerman (CRD #2233277, Registered Representative, Lewis Center, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$2,500 and suspended from association with any FINRA member in any capacity for 30 days. In light of Kleinerman's financial status, the imposed fine was \$2,500. Without admitting or denying the findings, Kleinerman consented to the described sanctions and to the entry of findings that, in order to obtain authorization for withdrawals totaling \$37,299.55 for a public customer directly from her IRA securities account, Kleinerman completed a distribution request form, dated the form in her own handwriting, affixed a photocopy of the customer's signature onto the form and submitted it to her member firm. The findings stated that Kleinerman used a photocopy of the customer's signature several times on distribution request forms with the customer's full knowledge or consent.

The suspension is in effect from April 20, 2009, through May 19, 2009. **(FINRA Case #2007008322701)**

**Derek Jon Kuklenski (CRD #5475749, Registered Representative, Orlando, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kuklenski consented to the described sanctions and to the entry of findings that he misappropriated \$200 in customer funds from his member firm by removing the funds from a cash drawer after regular business hours. **(FINRA Case #2008014018101)**

**Bennett Joseph Lacour III (CRD #603964, Registered Representative, Ormond Beach, Florida)** was barred from association with any FINRA member in any capacity and ordered to pay \$4,400, plus interest, in restitution to a customer. The sanctions were based on findings that Lacour borrowed \$5,000 from a customer contrary to his firm's written supervisory procedures prohibiting registered representatives from borrowing from a customer without prior review and approval by the firm, unless the customer was a family member or financial institution, which the customer was not. The findings stated that Lacour failed to pay the loan in full and failed to respond to FINRA requests for information. **(FINRA Case #2007011010401)**



**Alexis Lesko (CRD #4731218, Registered Representative, Frackville, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Lesko consented to the described sanction and to the entry of findings that she misappropriated \$24,520 from customers' accounts at the bank affiliated with her member firm. The findings stated that Lesko prepared fraudulent cash advance checks to cause unauthorized withdrawals from customers' bank accounts and then deposited the funds into her personal bank account. **(FINRA Case #2008013983601)**

**Nathan James Lorne (CRD #3277561, Registered Representative, Denver, Colorado)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Lorne made unauthorized withdrawals totaling approximately \$12,101 from an organization for which he was treasurer, and hid the withdrawals from the organization's officers and submitted false financial reports to the organization. The findings stated that Lorne converted the funds for his own personal use, except for a small amount that was for legitimate expense reimbursement, but repaid the organization after he was confronted about the unauthorized withdrawals. The findings also stated that Lorne engaged in outside business activities and failed to provide prompt written notice to his member firm, and made misrepresentations to his firm regarding any outside business activity. **(FINRA Case #2006005523401)**

**Kevin J. MacDonald (CRD #5357796, Registered Representative, Brookline, Massachusetts)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that MacDonald willfully failed to disclose material information on his Form U4 and failed to respond to FINRA requests for information. **(FINRA Case #2007010344801)**

**James Russell McCarthy Jr. (CRD #1123445, Registered Principal, Southborough, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any principal capacity for two months. The fine must be paid pursuant to an installment payment plan either immediately upon McCarthy's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, McCarthy consented to the described sanctions and to the entry of findings that he permitted an individual to perform functions requiring principal registration without being registered with FINRA in that capacity. The findings stated that McCarthy failed to enforce his member firm's written supervisory procedures requiring that a Watch/Restricted list be maintained while the firm participated in underwriting activities. The findings also stated that McCarthy failed to file a Suspicious Activity Report (SAR) in connection with suspicious stock transactions and wire activity involving the sale of over one billion shares of a sub-penny stock from the account of one customer resulting in total proceeds of over \$786,000.

The suspension is in effect from April 20, 2009, through June 19, 2009. **(FINRA Case #2006003916902)**

**Laurence J. McKeever (CRD #4172869, Registered Principal, Pearl River, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, McKeever consented to the described sanction and to the entry of findings that he failed to appear for FINRA on-the-record interviews. **(FINRA Case #2008012179101)**

**Matthew T. McKinney (CRD #4516034, Registered Representative, Issaquah, Washington)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, McKinney consented to the described sanction and to the entry of findings that he was assigned a corporate credit card by an affiliate of his member firm and, without the knowledge, authorization or consent of the affiliate or the firm, used the credit card to purchase merchandise for his personal benefit and purchased additional merchandise for his personal benefit which was billed directly by the vendors to the affiliate. The findings stated that McKinney, without the knowledge, authorization or consent of the affiliate or his firm, sold some of the merchandise that he obtained and retained the proceeds of the sales. The findings also stated that McKinney failed to respond to FINRA requests for information. **(FINRA Case #2007008624001)**

**Frederick Lee Mathis (CRD #4831306, Registered Representative, Marietta, Georgia)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Mathis used his manager's user identification and password to make unauthorized credits to his brokerage account at his member firm and to his bank account at his firm's bank affiliate. The findings stated that Mathis credited a total of \$1,205 from the firm account used to provide credits to customers to which he was not entitled. The findings also stated that Mathis failed to respond to FINRA requests for documents and information. **(FINRA Case #2007011906401)**

**Robert Brian Meadows (CRD #1780941, Registered Representative, Playa Del Rey, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Meadow's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Meadows consented to the described sanctions and to the entry of findings that, while associated with a member firm, he borrowed \$30,000 from a customer who was also a personal friend. The findings stated that Meadows did not obtain consent from the firm to borrow from the customer when the firm's written procedures prohibited registered persons from borrowing from customers except under certain circumstances and also required the firm's prior review and approval. The findings also stated that Meadows failed to disclose the loan when completing the firm's annual compliance questionnaires.

The suspension is in effect from April 6, 2009, through July 4, 2009. **(FINRA Case #2008013400501)**

**Charles James Moni (CRD #822557, Registered Representative, Princeton, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Moni's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Moni consented to the described sanctions and to the entry of findings that he recommended concentrated positions in the security of a clinical-stage drug development company to customers of his member firm. The findings stated that the concentrated positions were unsuitable for Moni's customers in light of their financial profile, personal circumstances and limited ability to withstand loss.

The suspension is in effect from April 6, 2009, through July 5, 2009. (FINRA Case #2006005007601)

**Raymond Lee Noragon (CRD #4499699, Registered Principal, Alpharetta, Georgia)** submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any principal capacity for six months. Without admitting or denying the allegations, Noragon consented to the described sanctions and to the entry of findings that he failed to enforce his member firm's supervisory procedures when he failed to cause his firm to conduct an annual compliance meeting, and failed to ensure that Offices of Supervisory Jurisdiction (OSJ) and non-OSJ branch offices were examined and the examinations documented. The findings stated that Noragon approved his member firm's participation as an underwriter in securities offerings without ensuring that the prospectuses used in connection with the offerings contained adequate disclosures and were not materially misleading.

The suspension is in effect from April 6, 2009, through October 5, 2009. (FINRA Case #2007007321102)

**Richard Vincent Patrick (CRD #2202549, Registered Principal, Little Silver, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Patrick consented to the described sanction and to the entry of findings that he engaged in an outside business activity without prompt written notice to his member firm; conducted private securities transactions without prior written notice to, or prior written approval from, his member firms; and failed to respond to FINRA requests for information and documents. (FINRA Case #2008013359401)

**Monty Chad Patton (CRD #2372126, Registered Representative, Oklahoma City, Oklahoma)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Patton's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Patton consented to the described sanctions and to the entry of findings that he prepared and submitted a 403(b) ERISA Distribution Request form on a public investor's behalf authorizing the distribution of

403(b) assets to a rollover IRA at his member firm. The findings stated that, even though the investor had consented to the transfer of her 403(b) assets, she was ineligible because she was currently employed by the 403(b) plan sponsor. The findings also stated that Patton was aware of her ineligibility, but provided false employment-status information and forged the plan administrator's signature on a distribution form to facilitate the rollover.

The suspension is in effect from April 20, 2009, through October 19, 2010. **(FINRA Case #2007010821101)**

**Joseph Aloysius Pramer III (CRD #1079663, Registered Representative, Norwalk, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Pramer consented to the described sanctions and to the entry of findings that he altered customer telephone records at his member firm by deleting or inaccurately updating the numbers to slow down other registered representatives at his firm that he believed would be assigned to call his customers after he resigned. The findings stated that by changing customer telephone numbers, Pramer caused his member firm to create and maintain inaccurate books and records.

The suspension is in effect from April 20, 2009, through June 1, 2009. **(FINRA Case #2007009372601)**

**Shon Charles Prejean (CRD #2768150, Registered Principal, Houston, Texas)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Prejean consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and documents. **(FINRA Case #2007007659502)**

**Mark Steven Ramos (CRD #1399655, Registered Principal, Orland Park, Illinois)** submitted an Offer of Settlement in which he was fined \$5,000, barred from association with any FINRA member in any principal capacity and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Ramos' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Ramos consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension is in effect from April 6, 2009, through April 5, 2010. **(FINRA Case #2007011247201)**

**Michael Dean Reysack (CRD #4276593, Registered Representative, Ankeny, Iowa)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Reysack's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application

or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Reysack consented to the described sanctions and to the entry of findings that he engaged in private securities transactions outside the scope of his employment with his member firm and without providing prior written notice to, or receiving written approval or acknowledgment from, his member firm of his role in the transactions. The findings stated that Reysack had previously disclosed his involvement in a real estate venture to the firm and the firm approved this activity, but cautioned him not to solicit other individuals to invest in his real estate venture.

The suspension is in effect from March 16, 2009, through September 15, 2009.  
(FINRA Case #2008013269801)

**Raghavan Sathianathan (CRD #1743692, Registered Representative, Montclair, New Jersey)** was barred from association with any FINRA member in any capacity. The U.S. Court of Appeals denied Sathianathan's petition for review. The SEC sustained the sanctions the NAC imposed following appeal of an OHO decision. The sanctions were based on findings that Sathianathan recommended and effected securities transactions for customers that were not suitable in light of their financial situations, investment objectives, circumstances and needs. The findings stated that Sathianathan exercised discretion in a customer's account without the customer's prior written authorization and his member firm's acceptance of the account as discretionary.  
(FINRA Case #C9B20030076)

**Jeff Ross Spencer (CRD #5066973, Registered Representative, Hickory, North Carolina)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Spencer falsified a customer's signature on documents submitted to his member firm to open multiple accounts for the customer, and failed to respond to FINRA requests for information. (FINRA Case #2007009380301)

**David Steven Stahl (CRD #834163, Registered Representative, Fairlawn, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid pursuant to an installment plan either immediately upon Stahl's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Stahl consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts without the customers' prior written authorization or his member firm's written acceptance of the accounts as discretionary.

The suspension was in effect from April 6, 2009, through April 20, 2009. (FINRA Case #2008012048901)

**Robert Kyle Stewart (CRD #2102132, Registered Representative, Mountain Home, Arkansas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Stewart consented to the described sanction and to the entry of findings that he accepted \$445,914.13 from an elderly public customer for investment in a corporation he organized and owned, and failed to issue the customer any

ownership interest. The findings stated that rather than using the funds as intended, Stewart converted the funds to his own use and benefit by depositing the funds into the corporation's bank account and paid personal expenses directly from the account or transferred funds to his personal bank account, thereby converting the funds without the customer's knowledge or consent. (FINRA Case #2007011438101)

**John Patrick Walsh (CRD #1993952, Registered Principal, Yonkers, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Walsh consented to the described sanction and to the entry of findings that he misappropriated stock and mutual fund shares valued at \$2,057,248.52 from his member firm, sold the stock and made personal use of the proceeds. The findings stated that Walsh misappropriated \$198,574.50 from a credit union affiliated with his firm by procuring a line of credit and creating false holdings in stock at his firm to secure the loan. (FINRA Case #2008012561701)

## Individual Fined

**Robert Eugene Strong (CRD #3079588, Registered Principal, New York, New York)** was fined \$10,000. The SEC imposed the sanction following appeal of a NAC decision. The sanction was based on findings that Strong failed to supervise a research analyst who sold securities in his personal trading account contrary to the recommendations contained in various firm research reports, and allowed the trader to execute purchase transactions during the blackout periods. The sanctions stated that Strong failed to include, or included insufficient or inaccurate required disclosures in research reports, and failed to timely file an annual attestation of supervisory procedures for research analysts. (FINRA Case #C0420050005)

## Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.

**Kale Edgar Evans (CRD #2236466, Registered Supervisor, San Diego, California)** was named as a respondent in a FINRA complaint alleging that he engaged in a speculative and reckless course of trading in a customer's account that included a short sale, repeated excessive concentrations in individual stocks and extensive use of margin interest. The complaint alleges that Evans recommended and effected transactions in the customer's account without reasonable grounds for believing the transactions were suitable in light of the information known to him about the customer's financial circumstances, needs and investment objectives. The complaint also alleges that Evans made a settlement payment to the customer without his member firm's knowledge and consent. The complaint further alleges that Evans engaged in a course of conduct



with the customer and her assets that was inconsistent with high standards of commercial honor and just and equitable principals of trade that enabled him to use, control and dissipate the proceeds of an insurance policy in a manner that harmed the customer while inuring to his personal benefit. **(FINRA Case #2006005977901)**

**Rani Tarek Jarkas (CRD #2642904, Registered Principal, San Francisco, California)** was named as a respondent in a FINRA complaint alleging that he recommended or, in the exercise of discretion, executed securities transactions in a customer's account at his member firm without having a reasonable basis for believing that the volume of trading he recommended was suitable for the customer in light of information known to him about the customer's financial circumstances, needs, other security holdings and investment objectives. **(FINRA Case #2005003052001)**

**Steve T. Newman (CRD #4778356, Registered Representative, San Antonio, Texas)** was named as a respondent in a FINRA complaint alleging that he received insurance premium payments totaling \$24,353 from a customer and, rather than depositing the checks in an account for his member firm or submitting them to the firm, he deposited the checks into an account over which he maintained control and thereafter misappropriated the funds, using a portion of the funds for his own use and benefit. The complaint alleges that Newman failed to provide on-the-record testimony that FINRA requested. **(FINRA Case #2007009893501)**

**David Michael Piazza (CRD #4347282, Registered Representative, Montgomery, Illinois)** was named as a respondent in a FINRA complaint alleging that he received a \$5,280 insurance premium payment from a customer, entered the payment into an insurance company's payment receipt system, failed to deposit the check into the company's bank account and, instead, deposited it into his own account, thereby misappropriating the customer's funds. The complaint alleges that Piazza did not place the customer's business with any insurance company until a later date, used other customers' premium payments to make up for the premium payments he had misappropriated and, to avoid detection of his conduct, temporarily changed the billing and mailing addresses on customers' accounts to his own address. The complaint also alleges that Piazza failed to respond to FINRA requests for information and documents. **(FINRA Case #2008012835301)**

**Martin Dennis Ross (CRD #2221937, Registered Representative, Boca Raton, Florida)** was named as a respondent in a FINRA complaint alleging that he engaged in pre-arranged or other manipulative trades primarily in order to artificially affect the market price for a security. The complaint alleges that Ross, by the use of any means or instrumentality of interstate commerce or of the mails, knowingly or recklessly engaged in manipulative or deceptive devices or contrivances in connections with the purchase or sale of securities, and knowingly or recklessly effected transactions in, or induced the purchase or sale of securities by means of manipulative, deceptive or other fraudulent devices or contrivances. The complaint also alleges that Ross aided and abetted the market manipulation of a security by an individual by knowingly or recklessly ignoring red flags or suspicious events associated with the trading of the security that should have alerted him to the manipulation. **(FINRA Case #2007008732902)**

**Debbie Michelle Saleh (CRD #2454630, Registered Representative, Calabasas, California)** was named as a respondent in a FINRA complaint alleging that she made recommendations to customers without reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customers on the basis of information she knew about their other security holdings and their financial situations and needs, including but not limited to, undue concentration and risk of loss of principal. The complaint alleges that Saleh recommended and caused customers to liquidate variable annuities in whole or in part and to purchase other variable annuities, and made the recommendations without having reasonable grounds for believing them to be suitable. The complaint also alleges that Saleh, without the customers' knowledge, authorization or consent, placed, or caused to be placed, false customer signatures on variable annuities documents requiring signatures and placed, or caused to be placed, false and inaccurate information on documents related to annuity transactions, omitted to disclose that the transactions were annuity exchanges and submitted the forms to her member firm and to insurance companies for transactions. The complaint further alleges that Saleh provided, or caused to be provided, false portfolio statements and insurance account histories to customers that reflected false and inaccurate information regarding investments in variable annuities, creating the appearance that the purported value of their investment portfolio was greater than it actually was. In addition, the complaint alleges that Saleh provided, or caused to be provided, false portfolio statements to customers that reflected securities positions that did not exist in their account, and failed to disclose to each of the customers or to her firm that certain annuity transactions constituted an exchange or switch between insurance products and some of these actions caused her firm's books and records to reflect inaccurate information. Moreover, the complaint alleges that Saleh effected transactions in customers' accounts without the customers' knowledge, authorization or consent, and effected these purchases and sales without receiving prior written authorization from the customers to exercise discretion and without the firm's written acceptance of the accounts as discretionary. Furthermore, the complaint alleges that Saleh falsely represented that she was a customer in telephone conversations with an insurance company. The complaint also alleges that Saleh, by engaging in this misconduct, directly or indirectly, in connection with the purchase or sale of securities, by use of means of instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, with scienter, employed devices, schemes or artifices to defraud; made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in acts, practices or courses of business which operated or would operate as fraud or deceit upon any person. Furthermore, the complaint alleges that Saleh made false and misleading statements during FINRA on-the-record testimony. **(FINRA Case #2005002169201)**

**Lance Nathaniel Scida (CRD #4634133, Registered Principal, Highlands Ranch, Colorado) and Dennis Dale Bailey (CRD #3060060, Registered Representative, Wichita, Kansas)** were named as respondents in a FINRA complaint alleging that they made recommendations to customers to buy and sell Collateralized Mortgage Obligation (CMO) securities without having reasonable grounds to believe the investments were suitable based upon the customers' investment experience, financial status and investment objectives. The complaint alleges that, in connection with their recommendations, Scida and Bailey made material misrepresentations and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and acted recklessly in making the misrepresentations and omissions. The complaint also alleges that Scida and Bailey exercised discretion in non-discretionary accounts without written authorization from their customers or a member firm principal. **(FINRA Case #2006005546007)**

**Jordan Paul Zaro (CRD #854313, Registered Principal, Chicago, Illinois)** was named as a respondent in a FINRA complaint alleging that he created false account statements showing positions in municipal securities and a money market account that a customer did not own, and created the impression that the customer's total investment portfolio was worth \$750,000 more than it really was. The complaint alleges that Zaro exercised control over the customer's account which he traded under oral discretionary authority but without the customer's prior written authorization from and Zaro's member firm's written acceptance of the accounts as discretionary. The complaint also alleges that Zaro's trading was unsuitable and excessive in size and frequency in view of the customer's financial situation and needs. **(FINRA Case #2007009851101)**

**Firm Expelled for Failure to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

**Empire Financial Group, Inc.**  
Longwood, Florida  
(March 27, 2009)

**Firms Expelled for Failure to Supply Financial Information Pursuant to FINRA Rule 9552**

**One Financial Securities, Ltd.**  
Houston, Texas  
(March 10, 2009)

**S&F Securities, LLC**  
Winter Park, Florida  
(March 10, 2009)

**Firm Suspended for Failure to Pay Arbitration Fees Pursuant to FINRA Rule 9553**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Empire Financial Group, Inc.**  
Longwood, Florida  
(March 23, 2009)

**Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

(If the revocation has been rescinded, the date follows the revocation date.)

**Michael D. Kirk**  
Las Vegas, Nevada  
(March 24, 2009)

**Christopher Robert Ranni**  
Monroe, New York  
(March 13, 2009)

**Robert Alexander Stewart Jr.**  
Cincinnati, Ohio  
(November 26, 2001 – March 31, 2009)

**Individuals Barred Pursuant to FINRA Rule 9552(h)**

(If the bar has been vacated, the date follows the bar date.)

**Mark Allen Butler**  
Chicago, Illinois  
(March 6, 2009)

**Jeffrey P. Shipman**  
Paxton, Massachusetts  
(March 13, 2009)

**David Scott Sutton**  
Somerset, Kentucky  
(March 18, 2009)

**Keith Andrew Wetteland**  
Aurora, Illinois  
(March 19, 2009)

**Individuals Suspended Pursuant to FINRA Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Alfred Mirza Allos**  
Commerce Township, Michigan  
(March 2, 2009)

**Melissa Anne Debaca**  
Kingman, Arizona  
(March 27, 2009)

**Individuals Suspended for Failure to Comply with an Arbitration Award or Settlement Agreement Pursuant to FINRA Rule 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**John Thomas Blanchette**  
Henderson, Kentucky  
(March 25, 2009)

**James Joseph Bovino**  
Hohokus, New Jersey  
(March 17, 2009)

**Lance Sloan Cooper**  
Mountain Brook, Alabama  
(March 17, 2009)

**Sean Michael Daly**  
Tuxedo Park, New York  
(March 25, 2009)

**Stephan Todd Day**  
Winston-Salem, North Carolina  
(March 5, 2009)

**Steven Martini**  
Delran, New Jersey  
(March 5, 2009)

**Diana DeWeese McKinney**  
Lynchburg, Virginia  
(March 25, 2009)

**Edward Mark McNally**  
Studio City, California  
(March 17, 2009)

**Theodore Angelo Pena**  
Oradell, New Jersey  
(May 9, 2007 – March 2, 2009)

**Albert Fredric Prud'homme**  
Fort Mill, South Carolina  
(March 17, 2009)

**Anthony Alfred Rossi Jr.**  
Jensen Beach, Florida  
(March 17, 2009)

## **FINRA Announces Agreements with Four Additional Firms to Settle Auction Rate Securities Violations**

### **Settlements Include Total Fines of \$850,000, Offers to Initiate or Complete Repurchase of \$554 Million in Customer ARS Holdings at Time ARS Auctions Seized**

The Financial Industry Regulatory Authority (FINRA) has entered into final settlements with four additional firms to settle charges relating to the sale of Auction Rate Securities (ARS) that became illiquid when auctions froze in February 2008. To date, FINRA has concluded final settlements with nine firms, imposing a total of \$2.6 million in fines and guaranteeing the return of more than \$1.2 billion to investors. Investigations continue at a number of additional firms.

The settlements announced today are with NatCity Investments, Inc. of Cleveland, which was fined \$300,000; M&T Securities, Inc. of Buffalo, which was fined \$200,000; Janney Montgomery Scott LLC of Philadelphia, which was fined \$200,000 and M&I Financial Advisors, Inc. of Milwaukee, which was fined \$150,000. All four firms agreed to initiate or complete offers to repurchase ARS sold to their customers where the auctions for the ARS had failed.

FINRA also announced that SunTrust Investment Services, Inc. and SunTrust Robinson Humphrey, Inc., both of Atlanta, determined not to finalize previously announced settlements in principle with FINRA. FINRA's investigation into both firms' ARS-related activities is continuing.

"Firms have an obligation to use fair and balanced marketing materials when selling any security, including Auction Rate Securities," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "This includes full disclosure of liquidity risks, which unfortunately became a reality in the ARS market last year. As with our previous ARS settlements, FINRA's top priority was to assure investors' access to the millions of dollars they invested in ARS."

FINRA's investigation found that each firm sold ARS using advertising, marketing materials or other internal communications with its sales force that were not fair and balanced and therefore did not provide a sound basis for investors to evaluate the benefits and risks of purchasing ARS. In particular, the firms failed to adequately disclose to customers the potential for ARS auctions to fail and the consequences of such failures. FINRA's investigation also found evidence that each firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with the securities laws and FINRA rules with respect to the marketing and sale of ARS.

In the actions, the firms agreed to a comprehensive settlement plan that has been applied in FINRA's previous ARS settlements. That plan includes several elements, including offers to repurchase at par ARS that were purchased by individual investors and some institutions between May 31, 2006, and Feb. 28, 2008. The firms have also agreed to make whole individual investors who sold ARS below par after Feb. 28, 2008.



In addition to individual retail ARS investors, the buy-back offers include non-profit charitable organizations and religious corporations or entities, trusts, corporate trusts, corporations, pension plans, educational institutions, incorporated non-profit organizations, limited liability companies, limited partnerships, non-public companies, partnerships, personal holding companies and unincorporated associations that made individual ARS purchases and whose account value did not exceed \$10 million.

Each firm is required to provide notice to its eligible customers promptly. Repurchases must begin no later than 30 days after the settlement is approved and must be completed no later than 60 days after settlement approval. Beginning no later than six months after settlement approval, each firm has also agreed to make its best efforts to provide liquidity to all other investors who purchased ARS during the same time period but who were not eligible for the initial repurchase.

FINRA noted that in the settlements announced today, each firm received credit for actions already taken to provide extraordinary remediation and other benefits to their ARS customers. Janney Montgomery Scott was credited for initiating its own offers in October 2008 to buy back frozen ARS from all customer accounts, irrespective of whether such ARS were purchased through the firm. Janney Montgomery Scott has already completed its repurchases. In addition, the firm was credited for extending cost-neutral loans to affected customers in March 2008, shortly after the ARS auctions failed. M&I Financial was credited for initiating its own offers in August 2008 to buy back ARS from those customers from whom it had not already repurchased ARS earlier in the year. M&I Financial has already completed its repurchases. M&T Securities was credited for initiating its own offers in December 2008 to buy back frozen ARS from customer accounts, without regard to when such ARS were purchased, and for providing cost-neutral lines of credit and demand notes through M&T Bank. NatCity was credited for having previously bought back ARS held by customers from whom it received complaints.

As part of the settlement plan, the firms also agreed to participate in a special FINRA-administered arbitration program to resolve investor claims for any consequential damages - that is, damages they may have suffered from their inability to access funds invested in ARS. Under this program, ARS investors may participate in an expedited arbitration paid for by the firm. The participating firm may not contest liability related to the illiquidity of the ARS holdings, nor to the ARS sales, including any claims of misrepresentations or omissions by the firm's sales agents. To speed the arbitration process under the special procedure, cases claiming consequential damages under \$1 million will be decided by a single public (non-securities industry) arbitrator. In cases with consequential damage claims of \$1 million or more, the parties can, by mutual agreement, expand the panel to include three public arbitrators. Additional information can be found at [www.finra.org/ars](http://www.finra.org/ars).

In concluding these settlements, the firms neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

## **FINRA Bars Broker for Converting and Improperly Using More Than \$500,000 from a Catholic Nun's Holdings, Another \$80,000 from Three Elderly Customers**

### **Victims Have Received Restitution from Broker, Legg Mason and Citigroup**

The Financial Industry Regulatory Authority (FINRA) has barred broker William Joseph Boyle from the securities industry for wrongfully converting and using funds from customer accounts and for failing to cooperate with FINRA investigators. Boyle's misconduct occurred both while he was working for Legg Mason Wood Walker, which was acquired by Citigroup in 2006, and at Citigroup.

FINRA found that Boyle deceived a 64-year-old nun into giving him two separate checks totaling approximately \$531,000, which she believed would be deposited into accounts for her benefit. Instead, Boyle deposited one check into his personal joint bank account and the second into a mutual fund account held in his name. Boyle similarly persuaded a retired couple and an elderly widow to give him additional checks totaling approximately \$80,000—which he again deposited into his own accounts, using the funds for his own benefit.

"FINRA is committed to identifying and expelling anyone under our jurisdiction who preys on the trust and goodwill of his customers, particularly vulnerable customers like seniors," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement.

The nun inherited approximately \$532,000 in mutual fund holdings when her mother died. Because she has taken a vow of poverty, the nun had intended for the money to go to her religious order. The nun's mother held an account at Legg Mason and Boyle was the broker who handled the mother's account. In October 2004, shortly after her mother's death, the nun opened an account with Boyle at Legg Mason and transferred the mutual fund holdings into that account. When Boyle recommended another investment later that month, a portion of her mutual fund holdings was sold and a \$125,000 check was mailed to her from Legg Mason. Boyle instructed the nun to sign the check and mail it back to him. Without the nun's knowledge, Boyle then deposited the \$125,000 into his own personal joint bank account and used these funds for his own benefit.

In 2005, Boyle proposed investing the nun's remaining assets in a tax exempt fund held outside of the firm. Boyle arranged for the sale of the remaining mutual fund holdings in the nun's account. He then instructed the nun to execute a Letter of Authorization, created by Boyle, which instructed Legg Mason to take the cash resulting from the sale of the mutual fund positions together with existing cash in the account and issue a check payable to a mutual fund company in the amount of \$406,013.89. This amount represented all of the nun's remaining assets held in her account. Without her knowledge, the funds were deposited into an account at the mutual fund company that was controlled by Boyle. Boyle used these funds for his own benefit, including funding International Sports Management LLC, an entity Boyle founded and used to market his financial services to aspiring professional athletes.

FINRA found that in 2006, Boyle convinced a retired couple to invest \$50,000 in an outside real estate venture. Boyle liquidated mutual fund holdings in the couple's Citigroup account and arranged for Citigroup to send them a \$50,000 check. Boyle instructed the couple to issue a separate check from their personal checking account held outside of Citigroup made payable to Boyle's firm, International Sports Management. The retired husband, 81, was a former air traffic controller and his wife, 75, a former nurse. Despite their belief that they were investing in a real estate product, Boyle used the money for his own benefit without their knowledge.

FINRA further found that in 2007, a retired 83-year-old widow gave Boyle a check for \$30,000 for the specific purpose of depositing the check into her Citigroup brokerage account. Instead, Boyle deposited the \$30,000 check into International Sports Management's account and used the money for his own benefit without the widow's knowledge.

FINRA received information regarding Boyle's misconduct in November 2007. At about that time, Boyle refunded \$50,000 to the retired couple. Of the approximately \$531,000 that Boyle received from the nun, he refunded approximately \$39,000. Although neither Legg Mason nor Citigroup was a party to this action, Legg Mason reimbursed the nun for the remainder of the money that Boyle had misappropriated and Citigroup reimbursed \$30,000 to the elderly widow.

In settling this matter, Boyle neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

## **First New York Securities, Four of its Former Traders Ordered to Pay Over \$436,000 for Covering Short Sales with Secondary Offering Shares**

### **Sanctions Include \$265,000 in Fines, Over \$171,000 in Disgorgement**

The Financial Industry Regulatory Authority (FINRA) announced that it has fined First New York Securities L.L.C. \$170,000 for improperly covering short positions with secondary offering shares and related oversight failures. The firm was also ordered to disgorge more than \$171,000 in trading profits earned from the prohibited conduct. Four of the firm's former traders who conducted the transactions were fined a total of \$95,000.

During the relevant time, the Securities and Exchange Commission—through Rule 105 of Regulation M—prohibited covering a short sale with securities obtained in secondary offerings when the short sale occurs during a specific restricted period—typically five business days—before the secondary offering is priced.

"Rule 105 is designed to promote the integrity and orderliness of the secondary offering process," said Tom Gira, FINRA's Executive Vice President for Market Regulation. "This case illustrates FINRA's commitment to ensure registered firm compliance with this important rule."

A FINRA investigation found that in 2005, the firm and four traders violated Rule 105 in connection with five public offerings by selling shares short during the restricted period and then covering their short positions with shares received through the offering. By engaging in this prohibited conduct, the firm and the four traders effectively eliminated their market risk and earned a profit of \$171,504.

FINRA ordered Joseph E. Edelman to pay a fine of \$50,000 and Larry Chachkes to pay a fine of \$30,000. The other two traders—Michael M. Cho and Kevin A. Williams—were each ordered to pay a fine of \$7,500.

In addition, FINRA found that the firm failed to adequately supervise the activities of the four traders and failed to establish and enforce a supervisory system and written supervisory procedures reasonably designed to achieve compliance with, and prevent violations of Rule 105.

The firm also was found to have provided inaccurate information in response to an inquiry from FINRA. The communication of the inaccurate information was caused by the firm's failure to have in place adequate supervisory procedures reasonably designed to ensure the firm provided responsive information to regulatory inquiries. The firm also failed to maintain adequate books and records in connection with the subject transactions.

In settling this matter, the firm and the four traders neither admitted nor denied the charges, but consented to the entry of FINRA's findings

## **FINRA Hearing Panel Fines Mutual Service Corp. More than \$1.5 Million for Supervisory Failures, Falsifying Records Relating to VA Exchanges**

### **Panel Bars Three Individuals, Fines and Suspends Three Others**

A Financial Industry Regulatory Authority (FINRA) hearing panel has fined Mutual Service Corporation (MSC) of West Palm Beach, FL, more than \$1.5 million for failing to conduct timely reviews of variable annuity transactions, falsifying various books and records of the firm to make it appear that the variable annuity transactions were reviewed in a timely manner, and providing false and misleading information to FINRA during its investigation. The hearing panel sanctioned six current and former MSC personnel for their roles in the wrongdoing.

Three current or former employees—Denise Roth, a manager in MSC's operations department; Gari Sanfilippo, a former senior compliance examiner; and Kevin Cohen, a former compliance examiner—were permanently barred from the securities industry for falsifying the books and records of the firm. MSC's former Chief Administrative Officer and Executive Vice President, Dennis S. Kaminski; its Director of Operations, Susan Coates; and its former Chief Compliance Officer and Vice President, Michael Poston, each were sanctioned for their supervisory failures. Kaminski and Coates each were fined \$50,000 and suspended for six months from associating with any securities firm in a principal capacity. Poston was fined \$20,000 and suspended from serving in a principal capacity for seven months.

Cohen and Sanfilippo have appealed the ruling to FINRA's National Adjudicatory Council (NAC), while the NAC unilaterally has called Kaminski's case for review of the sanctions. Sanctions against all three have been stayed pending a ruling from the NAC.

The hearing panel found that MSC has a history of failing to supervise sales and exchanges of variable annuities adequately. As part of a settlement with FINRA in 2001, MSC agreed to implement procedures to provide dedicated, heightened oversight of variable annuities transactions. Specifically, the firm created a "trade review team" (TRT) to review variable annuity exchange transactions that appeared on the firm's "red flag" blotter exception report, which captured exchange transactions that required further scrutiny.

According to the hearing panel, between March and June 2004, there was a "complete meltdown of MSC's supervisory system for the review of variable annuity transactions." During those months, Kaminski and Poston directed MSC compliance personnel to stop reviewing transactions that appeared on the firm's red flag blotter. Despite having oversight responsibility for all variable transactions and being aware of the supervisory failures, Coates failed to act decisively to correct the situation.

While the backlog of transaction reviews was developing, Kaminski, Poston and other MSC managers met in May 2004 with FINRA staff regarding the firm's review of variable annuity transactions. The hearing panel found that the MSC representatives misled FINRA about the firm's supervisory efforts relating to the red flag blotters and failed to mention that MSC had suspended review of the blotters. The hearing panel also found that the MSC representatives misled FINRA about the use of a prototype exception report that had not actually yet been utilized.

During the time that the review of the red flag blotter was suspended, 597 transactions that appeared on the red flag blotter between March 15 and June 1, 2004, were not reviewed by TRT in a timely fashion. Those transactions were not reviewed until August to October 2004.

To make it appear that these TRT reviews had been done in a timely manner, Roth, Sanfilippo and Cohen ensured that the trade review forms and the red flag blotters for the transactions were backdated to within one or two days of the transaction. In addition, the hearing panel found that Cohen created 49 fake letters in October 2004 and placed them in the firm's files to make it appear that a newly developed variable annuity exception report had been in use since January 2004. In actuality, this exception report was not used by the firm until October 2004. The hearing panel found that MSC, Roth, Sanfilippo and Cohen intentionally falsified MSC's records to deceive FINRA staff and termed those violations "egregious."

During the course of FINRA's investigation, after FINRA staff learned of MSC's failure to timely review the red flag blotters, FINRA requested documents and information relating to the backlogged transactions. The hearing panel found "incontrovertible evidence that MSC did not respond completely and truthfully to the request for information." Instead, MSC produced documents that had been changed to eliminate the backdating.

In determining MSC's sanction, the hearing panel cited several aggravating factors. It considered first the firm's disciplinary history of deficient supervision of variable annuity transactions, but found more disturbing the fact that MSC deceived FINRA staff regarding the status of its supervisory system and procedures. The hearing panel found that MSC's supervisory and record keeping violations were "egregious."

Susan Coates' suspension is in effect from February 16, 2009, through August 16, 2009. Michael Poston's suspensions are in effect from February 16, 2009, through September 14, 2009.

## **FINRA Fines 25 Firms More Than \$2.1 Million for Failures in Mutual Fund Breakpoint Review, Other Violations**

### **Case Concludes Series of Actions Arising From FINRA's Mutual Fund Breakpoint Initiative**

FINRA announced that it has fined 25 broker-dealers a total of \$2,145,000 for failures related to their completion of FINRA's (then NASD's) firm self-assessment of mutual fund breakpoint discount compliance.

The self-assessment required firms that sold front-end load mutual funds to review their compliance in providing breakpoint discounts to customers during 2001 and 2002 and report those results to FINRA. Breakpoint discounts are volume discounts applicable to front-end sales charges (front-end loads) on Class A mutual fund shares. The self-assessment followed findings by NASD, the NYSE and the Securities and Exchange Commission that nearly one in three mutual fund transactions that appeared eligible for a breakpoint discount did not receive one.

"FINRA is hindered in carrying out its regulatory mission when firms fail to adequately self-assess their conduct and report the results accurately and in a timely manner," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "Today's settlements are a clear message that when firms are required to perform self-assessments, FINRA demands that they be diligent and fully compliant."

The findings made in today's settlements result from FINRA's review of firms' compliance with the self-assessment requirements. The violations include failing to accurately report information; failing to send timely notices and responses to customers concerning the availability of breakpoint discounts; failing to provide timely refunds for missed breakpoints to customers; and failing to correctly calculate such refunds.

In addition, FINRA found that three firms—Fox & Company Investments, Inc., First Midwest Securities, Inc. and Chase Investment Services, Corp.—failed to deliver breakpoint discounts during a later review period and continued to fail to have reasonable written supervisory procedures in place to assure that appropriate breakpoint discounts would be delivered to their customers during that later period.

In its review, FINRA found that 14 firms—J.J.B. Hilliard, W.L. Lyons Inc., New England Securities, SunAmerica Securities, Inc., Multi-Financial Securities Corporation, H. Beck, Inc., Leonard & Company, Fox & Company Investments, Inc., Investors Capital Corp.,



vFinance Investments, Inc., FSC Securities Corporation, National Securities Corporation, Advantage Capital Corporation, Steven L. Falk & Associates, Inc. and Securities America, Inc.—failed to accurately and/or fully complete their self-assessments.

FINRA further found that six of the firms—Multi-Financial Securities Corporation, Intersecurities Inc., SWS Financial Services, Spelman & Co. Inc., Securities America, Inc., and SIGMA Financial Corporation—failed to accurately complete a comprehensive trade-by-trade review of transactions. The trade-by-trade review was a required part of their customer remediation process following the self-assessment.

Six firms—ProEquities, Inc., FSC Securities Corporation, Lincoln Investment Planning, Inc., New England Securities, Gary Goldberg & Co., Inc., and Leonard & Company—failed to provide timely refunds of breakpoint discounts to their customers. In addition, five firms—Leonard & Company, Gary Goldberg & Co., Inc., Financial West Group, GunnAllen Financial, Inc. and ProEquities, Inc.—failed to notify their customers on a timely basis—or failed to notify them at all—of the potential for reimbursement for missed breakpoint discounts. In addition, GunnAllen and ProEquities did not timely respond to customer inquiries about breakpoint discounts.

The names of the firms charged and fines assessed are:

J.J.B. Hilliard, W.L. Lyons Inc.	\$500,000
New England Securities	\$500,000
SunAmerica Securities, Inc.	\$300,000
Multi-Financial Securities Corporation	\$150,000
H. Beck, Inc.	\$140,000
SWS Financial Services	\$70,000
Leonard & Company	\$60,000
Securities America, Inc.	\$55,000
SIGMA Financial Corporation	\$50,000
Intersecurities, Inc.	\$50,000
Fox & Company Investments Inc.	\$45,000
Chase Investment Services Corp.	\$32,500
vFinance Investments, Inc.	\$27,500
Investors Capital Corp.	\$25,000
ProEquities, Inc.	\$25,000
National Securities Corporation	\$25,000
Gary Goldberg & Co., Inc	\$19,500
FSC Securities Corporation	\$15,000
Lincoln Investment Planning, Inc.	\$15,000
Spelman & Co.	\$10,000
Stephen L. Falk & Associates, Inc.	\$7,500
First Midwest Securities, Inc.	\$7,000
GunnAllen Financial, Inc.	\$6,000
Advantage Capital Corporation	\$5,000
Financial West Group	\$5,000

The fines for two firms—New England Securities and H. Beck, Inc.—include other charges in addition to breakpoint self-assessment failures. The additional findings against H. Beck relate to fee-based brokerage violations. Additional findings against New England Securities involve anti-money laundering violations, customer complaint and other reporting violations and supervisory deficiencies.

All 25 firms settled these matters without admitting or denying the findings, but consented to the entry of FINRA's findings.

### **FINRA Fines Wachovia Securities and First Clearing \$1.1 Million for Failing to Provide Required Notifications to Customers**

#### **Firms Also Required to Retain Independent Consultant to Review Procedures**

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Wachovia Securities, LLC and First Clearing, LLC, both of St. Louis, MO, \$1.1 million for the firms' failure to provide more than 800,000 required notifications to customers over a five-year period ending in 2008. As a part of the settlement with FINRA, the firms are required to retain an independent consultant to review their supervisory systems and processes.

At the time of the activity at issue, Wachovia Securities and First Clearing were both subsidiaries and non-bank affiliates of Wachovia Corporation. On Dec. 31, 2008, Wachovia Corporation was acquired by Wells Fargo & Company.

FINRA found that the failures by Wachovia Securities and First Clearing were the result of various computer programming and operational problems that went undetected by the firms' internal controls procedures and supervisors. Those failures included over 300,000 notifications of changes in investment objectives and approximately 340,000 notifications of changes of address.

"These notices are an important form of investor protection—they help protect against changes that are erroneous, unauthorized, or, in the worst case, indicative of an effort to conceal misconduct involving a customer's account," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "It is crucial that firms meet their customer notification obligations."

FINRA also found that First Clearing failed to send notifications of the existence of clearing agreements to over 54,000 customers and failed to send required margin disclosure statements to more than 50,000 customers. First Clearing also failed to provide customers with trade confirmations for certain bond transactions that accurately reflected the ratings of bonds; failed to provide required information to holders of certain debt, including information about partial call notifications; and, failed to send notifications to customers about certain asset transfers.

In addition, FINRA found that Wachovia Securities and First Clearing failed to have written policies or procedures in place relating to the required notifications and failed to assign supervisory review for various automated mailing systems. FINRA found that the violations went undetected because of the firms' failure to implement appropriate

internal controls and testing. FINRA also found that Wachovia Securities and First Clearing failed to establish adequate supervisory systems and procedures relating to the required notifications.

FINRA found that the firms' actions of Wachovia Securities and First Clearing violated the supervision, internal testing and controls, and other provisions of FINRA rules, as well the record keeping provisions of both FINRA rules and the federal securities laws.

In settling these matters, Wachovia Securities and First Clearing neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

## **Morgan Stanley to Pay More than \$7 Million to Resolve FINRA Charges Relating to Misconduct in Early Retirement Investment Promotion**

### **FINRA Also Bars Broker, Charges Second Broker, Suspends Supervisor**

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Morgan Stanley & Co. \$3 million—and ordered it to pay more than \$4.2 million in restitution to 90 Rochester, NY-area retirees—to resolve charges that its supervisory system failed to detect and prevent brokers from persuading Eastman Kodak Company and Xerox Corporation employees to take early retirement based upon unrealistic promises of consistently high investment returns and by espousing unsuitable investment strategies.

FINRA found that Morgan Stanley failed to reasonably supervise the activities of Michael J. Kazacos and David M. Isabella, two former registered representatives in its Rochester branch office. FINRA has permanently barred Kazacos from the securities industry for committing numerous violations of FINRA rules in connection with his solicitation and handling of IRA rollover/retirement accounts, such as making unrealistic predictions that customers would earn investment returns of 10 percent each year.

In a formal disciplinary complaint, FINRA charged Isabella with having engaged in similar misconduct. The matter will be adjudicated before a three-member FINRA Hearing Panel. FINRA also found that Ira S. Miller, the manager of Morgan Stanley's Rochester branch, failed to reasonably supervise both representatives. Miller was fined \$50,000, suspended from acting in a principal capacity for one year and ordered to re-qualify as a principal before serving in such capacity in the future. The suspension is in effect from April 20, 2009, through April 19, 2010.

FINRA found that as a result of the misconduct, at least 184 customers suffered financial hardships, including market losses, a reduction in principal and the inability to sustain expected withdrawal rates. In many cases, the customer's initial investment was eroded by market declines and the customer's monthly withdrawals were not funded by income but were really distributions of principal. Some customers were forced to return to work at a greatly reduced income in order to meet their basic living expenses. FINRA has ordered Morgan Stanley to pay restitution to 90 former customers of Kazacos or Isabella who sustained losses. The firm has previously settled with 101 other customers of those brokers.

“Protecting investors who have retired or are considering retirement has been one of FINRA’s top priorities,” said Susan L. Merrill, Executive Vice President and Chief of Enforcement. “Brokerage firms and brokers who serve investors considering retirement must ensure that their customers are given suitable investment recommendations based upon reasonable assumptions of market performance and are given thorough disclosure of investment risks. The supervisory failures of Morgan Stanley and its management led to losses suffered by customers at a vulnerable time in their lives—retirement—which could have been avoided.”

Specifically, FINRA found that, from 1998 through 2003, Kazacos persuaded retirees and potential retirees to invest their retirement assets with him by representing that these investors would earn 10 percent returns each year and would be able to satisfy their income needs by withdrawing annually a similar percentage for living expenses without reducing their principal. Kazacos’ statements encouraged several individuals to move their retirement accounts to Morgan Stanley, with some deciding to retire sooner than they otherwise might have.

FINRA found that Kazacos told customers in their 50s that, even though they had not reached the minimum age for taking withdrawals from their qualified retirement accounts (59-and-a-half), they could begin taking systematic distributions from their accounts, without penalty, by relying upon Section 72(t) of the Internal Revenue Code. FINRA also found that Kazacos failed to inform these customers of the risks associated with his recommended investment strategies.

FINRA further found that, once Kazacos began servicing the retirement accounts—which were often the only source of income for the retirees—he implemented unsuitable investment strategies that exposed the accounts to greater risk, particularly in a declining market, and reduced the principal in many accounts. He invested many of the customers in mutual funds, with an unsuitably high concentration in equity funds. Kazacos also recommended unsuitable variable annuity transactions.

As to Isabella, a former Xerox employee, FINRA charged that from 2000 through 2003, he solicited many of that company’s retirees and potential retirees to invest with him at Morgan Stanley. Isabella allegedly represented to prospective customers that, if they invested their retirement money with him, they would earn approximately 10 percent returns or more each year and be able to satisfy their income needs by withdrawing a consistent amount of money each year without reducing their principal.

In addition to the violations above, FINRA charged Isabella with falsifying records concerning the financial situations and goals of his customers. FINRA also alleged that, in exchange for various gifts to certain Xerox employees, Isabella improperly obtained confidential employment records regarding, among other things, the retirement status of prospective customers employed by Xerox. He utilized this confidential information to attract new customers. FINRA further alleged that, in communicating with prospective customers, Isabella used a professional designation—Retirement Planning Specialist—that he did not actually possess. Finally, FINRA charged Isabella with providing false testimony during its investigation.

FINRA found that Morgan Stanley failed to enforce a reasonable supervisory system to ensure that Kazacos and Isabella provided customers with appropriate risk disclosures concerning their retirement accounts. During the relevant time period, Kazacos and Isabella generated approximately \$15.4 million in gross commissions. The firm knew or should have known that these representatives were actively marketing their early retirement programs to retirees and potential retirees. Nevertheless, the firm failed to take reasonable steps to ensure, among other things, that customers received proper risk disclosures and that Kazacos and Isabella did not promise or promote unrealistic investment returns. FINRA further found that Morgan Stanley also failed to ensure that the securities and accounts that those representatives recommended for the retirees, such as variable annuities and fee-based managed accounts, were properly reviewed for suitability and other concerns.

FINRA also found that Miller failed to take appropriate action to reasonably supervise Kazacos and Isabella to prevent their unsuitable investment recommendations and failures to disclose risks to many customers.

In settling these matters, Morgan Stanley, Kazacos and Miller neither admitted nor denied the findings, but consented to the entry of FINRA's findings